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Patent 09/773,103

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
(LHTLG No. 00-236-A)

In re Application of:  
Chen, et al.

Serial No. 09/773,103

Filed: January 31, 2001

Title: BROADBAND COMMUNICATIONS  
ACCESS DEVICE

)  
) Examiner: Ian N. Moore  
)  
) Group Art Unit: 2661  
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) Confirmation No. 5447  
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)  
)

Mail Stop: Appeal  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**TRANSMITTAL LETTER**

1. We are transmitting herewith the attached papers for the above identified patent application:

☒ **APPELLANT'S REPLY BRIEF TO EXAMINER'S ANSWER under 37 C.F.R. 41.41(a) and 41.43(b) (44 Pages) .**

2. **FEES:** No fees are required.

3. **GENERAL AUTHORIZATION TO CHARGE OR CREDIT FEES:** Should this assumption be incorrect please charge any additional fees (or credit overpayment) to Deposit Account No. 50-2281 for Lesavich High-Tech Law Group, PC (32097).

3. **CERTIFICATE OF MAILING under 37 CFR § 1.10**, the correspondence identified above was deposited with the United States Postal Service as "Express Mail Post Office to Addressee," addressed to the Mail Stop: Appeal, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313 on the 28th Day of February 2006. Express Mail Number EV762983820US.

Respectfully submitted,

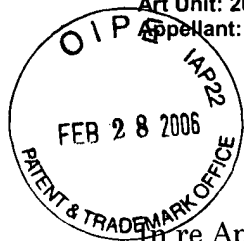
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Dated: February 28, 2006

EV762983820US

PATENT APPEAL BRIEF  
Application No. 09/773,103  
Examiner: Ian N. Moore  
Art Unit: 2661  
Appellant: 3ETI



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
Board of Patent Appeals and Interferences  
(LHTLG No. 00,236-A)

In re Application of:  
**Chen, et al.**

Serial No. **09/773,103**

Filed: **January 31, 2001**

Title: **Broadband Communication  
Access Device**

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) Examiner: **Ian N. Moore**  
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**APPELLANT'S REPLY BRIEF TO EXAMINER'S ANSWER**

**37 C.F.R. 41.41(a) and 41.43(b)**

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### **APPELLANT'S REPLY BRIEF TO EXAMINER'S ANSWER**

This a Reply Brief submitted under 37 C.F.R. 41.41(a) and 41.43(b) within sixty (60) days to an Examiner's Answer mailed December 29, 2005, to an Patent Appeal Brief submitted under 37 C.F.R. § 1.192 on October 4, 2005.

### **REAL PARTY IN INTEREST**

The 3E Technologies International, Inc., formerly Aeptec Microsystems, Inc. is the real-party in interest.

### **RELATED APPEALS AND INTERFERENCES**

There are no related appeals and interferences known to the Appellant.

### **STATUS OF CLAIMS**

The status of the claims is as follows:

1. Claims at filing: 1-37.
2. Claims amended in an Amendment and Response filed December 12, 2004:  
Claims 3, 29, 30 and 31. New claims 38-40 added.
3. Claims pending: 1-40.
4. Claims rejected: 1-26, 28, 30 and 32-37.
5. Claims objected to: 27, 29 and 31
6. Claims allowed: 38-40.

Thus, the claims on appeal are claims 1-26, 28, 30 and 32-37.

### **STATUS OF AMENDMENTS**

All amendments filed in the application have been entered as understood by the Appellant.

### **GROUPING OF CLAIMS**

Claims 1-37 stand and fall together. A current listing of Claims 1-40 is included in The Claims Appendix.

### **ISSUES PRESENTED FOR REVIEW**

1. Whether Claims 1-3, 5, 8-13, 21, 22 and 30 are unpatentable under 35 U.S.C. 103(a) over Edson (U.S. 6,526,581) in view of Jarett (U.S. 5,911,120).
2. Whether Claim 4 is unpatentable under 35 U.S.C. 103(a) over Edson (U.S. 6,526,581) in view of Jarett (U.S. 5,911,120) and further in view of Yamamoto (U.S. 5,572,575).
3. Whether Claims 14-20 are unpatentable under 35 U.S.C. 103(a) over Edson (U.S. 6,526,581) in view of Jarett (U.S. 5,911,120) and further in view of Gerszberg (6,396,531).
4. Whether Claims 23-26 are unpatentable under 35 U.S.C. 103(a) as being unpatentable over Edson (U.S. 6,526,581) in view of Jarett (U.S. 5,911,120) and further in view of Treyz (6,678,215).
5. Whether Claims 6,7 and 32-37 are unpatentable under 35 U.S.C. 103(a) over Edson (U.S. 6,526,581).
6. Whether Claim 28 is unpatentable under 35 U.S.C. 103(a) in view

of Jarett (U.S. 5,911,120), further in view of Gerszberg (6,396,531)

and further in view of Treyz (6,678,215).

**The Appellant traverses all of the Examiner's assertions in his Examiner's Answer, accepts all his admissions, and responds as follows.**

### ARGUMENT for ISSUE 1

1. To establish a case of *prima facie* obviousness of a claimed invention in the first place, all of the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981 (CCPA 1974).

A prior art reference must be considered in its entirety, i.e., as whole, including portions that would lead away from the claimed invention. *W.L. Gore and Associates, Inc. v. Garlock, Inc.* 721 F.2d 1540 (Fed. Cir. 1983).

A *prima facie* case of obviousness may also be rebutted by showing in the cited art, in any material respect, teaches away from the claimed invention. *In re Geisler*, 116 F.3d 1465, 1471 (Fed. Cir. 1997).

2. Obviousness can only by combining the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347 (Fed. Cir. 1992).

If a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no motivation to make the proposed modification. *In Re Gordon*, 733 F.2d 900 (Fed. Cir. 1984).

If a proposed modification or combination of the prior art would change the principle operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti* 270 F.2d 810 (CCPA 1959).

### Reply to Examiner's Answers For Argument 1 for Issue 1

Arguments are being made based on independent Claim 1 for simplicity. However, the same arguments apply to the same claim elements of independent Claim 30 and the other independent claims with similar elements.

The first element of Claim 1 teaches “An integrated phone-based home gateway system providing in-home and to-home networking, comprising in combination, a home gateway interface for *initializing broadband communications service* configurations and *provisions*, initializing data communications parameters and for providing routing or bridging for networking communications.” The fourth claim element of Claim 1 teaches “a display interface for displaying the information from the one or more networks.”

**(a) The Examiner violated the holding of *In re Royka* because not all of the claim limitations are taught or suggested by the prior art.**

*The Appellant has stated in three other separate papers why Edson alone or in combination with Jarett does not teach all of the limitations of the claimed invention including provision(ing) and other claim elements.*

First, the Court of Appeals for the Federal Circuit has ruled that the words of a claim must be given a plain meaning unless the Appellant has provided a clear definition in the specification. *In re Zletz*, 893 F.2d 312 (Fed. Cir. 1989) and *Chef America, Inc. v. Lamb-Weston, Inc.* 358 F.3d 1371, 1372 (Fed. Cir. 2004). The Appellant has done so in the current matter.

The Appellant’s application teaches “Service provisioning is also required to use broadband communications. As is known in the art, service provisioning includes allocating, configuring and maintaining multiple transmission channels and virtual

communications paths used for broadband communications.” (Application, Page 3, lines 16-19).

“The integrated phone-based home gateway system may help hide both data (e.g., Internet Protocol) and broadband (e.g., DSL, cable, wireless, etc.) service configuration and provisioning complexity from home users by providing automatic establishment of communications channels and automatic provisioning and initialization of broadband, data, routing, bridging and other communication parameters.” (Page 7, lines 1-6).

Thus, the Appellant has provided a clear definition in the specification and the Appellant’s definition of provisioning must apply in any analysis based on the holdings of *In re Zletz* and *Chef America, Inc.* The Examiner has not appeared to do so.

Second, the Edson reference does not and cannot *expressly* teach the claim limitation “provision(ing)” as defined by the Appellant or by any other definition by anyone else since the word provision(ing) simply **does not appear anywhere at all in the Edson reference.** Edson does not expressly teach “virtual communications paths” as is included in the Appellant’s definition of provisioning. The words “virtual communications paths” do not appear anywhere at all in the Edson reference. In addition, the word “bridge” does not appear in the teachings of Edson.

The Examiner has repeated over and over that with respect to provisioning, Edson teaches “col. 10, lines 1-65; note that the combined system initializes/processes/starts the broadband/DSL/CATV communications services configurations and provisions/requirements...” However, the word “provision(ing)” does not appear in Col. 10 or anywhere else at all in Edson, so Edson cannot expressly teach provisioning at Col. 10 or anywhere else as the Examiner asserts.



Third, since the Edson reference does not expressly teach the claim limitation provisioning as defined by the Appellant or even include the word provision(ing), the Examiner has to rely on the Edson reference teaching provisioning *inherently*. However, for the Examiner to rely on inherency, the Examiner must provide rationale or evidence tending to show inherency. MPEP §2112. To establish inherency, the extrinsic evidence “must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. *Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.*” *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999).

In addition, fact that a certain result or characteristic may occur or be present in the prior art *is not sufficient to establish the inherency of that result or characteristic.* *In re Rijckaert 9*, F.3d 1531, 1534 (Fed. Cir. 1993). “In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.” *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990).

The Examiner has again repeated over and over in previous office actions and his Examiner’s Answer that with respect to provisioning, “col. 10, lines 1-65; note that the combined system initializes/processes/starts the broadband/DSL/CATV communications services configurations and provisions/requirements by converting them between the user’s data protocol (i.e., CATV video, voice or data) to the protocol that can communicate with the external network (i.e., DSL, CATV, or X-link).”

Thus, the Examiner, by his own words has repeated several times over and over that Edson *inherently* teaches provisioning as a “protocol conversion between a user’s data protocol (only CATV) and a protocol that can communicate with an external network (only DSL, CATV or X-LINK).”

There are several problems with the Examiner’s evidence of inherency. First, the Examiner’s asserts that Edson inherently teaches provisioning as a protocol conversion. This definition does not match the definition of provisioning provided by the Appellant in the application. In addition, the Appellant’s invention is not limited to using only CATV on the user side and only DSL, CATV or X-LINK on the network side.

Third, the Examiner has not provided any basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art as is required by under the holding of *Ex Parte Levy*. The only basis in fact and/or technical reasoning that the Examiner has provided is his own words applied upon the teachings of Edson that provision(ing) is “protocol conversion.”

The Examiner’s basis in fact and/or technical to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of Edson is also contradicted by the teachings of Gerszberg et al, U.S. Patent No. 6,396,531, also asserted by the Examiner in the present matter. Gerszberg mentions provisioning several times (See e.g., Col. 27, lines 1-65, Col. 33, lines 25-29, ). None of these definitions include “protocol conversion” as asserted by the Examiner. None of the other patents cited by the Examiner in this matter (i.e., Jarett, Yamamoto or Treyz) teach or suggest provision(ing) as a “protocol conversion” either.

In addition, the Examiner's inherent definition of provisioning as a "protocol conversion" would not be accepted by those skilled in the telecom or networking arts. As an example, Newton's Telecom Dictionary, 17<sup>th</sup> Edition, claiming to be "The Official Dictionary of Telecommunications Networking and the Internet" on page 555 defines provisioning as "the act of supplying telecommunications services to a user, including all associated transmission, wiring and equipment. The telephone industry defines provisioning as an 'engineering term' referring to the act of providing sufficient quantities of switching equipment to meet established service standards." Nowhere in Newton's definition does provision(ing) appear as "protocol conversion" as asserted by the Examiner.

The Examiner then further asserts for the first time in his Examiner's Answer that "Services and *provisions* occur when the communication data traffic (i.e., from/to data traffic receiving at gateway 13, ports 123, 125, 121) or devices associated with such communication data traffic (i.e., from/to home devices at home network side, such as telephone 32, TV 42, etc.) are identified/recognized, processed to establish a connection with respect to protocols, ports, service types, etc. and then routed according to their respective/required/*provisioned* connection (i.e., to/from public network side (CATV, ADSL ports 117, 119, 115 side)). One cannot route, interchange or interconnect the communication data traffic between public network and home network without initializing/starting configuration and *provision*. Another word, one cannot obtain/establish a phone service communication, DSL service/communication or CATV service from the service provider without initializing/starting the configuration and *provision* of such services. Therefore, examiner has clearly provided Edson's disclosure as proof." (Examiner's Answer pages 27-28). (Italics added by Appellant).

There are many problems with this assertion by the Examiner. First, the Examiner then appears to rely on what may occur or what should occur in violation of the holdings of *In re Roberston*, *In re Rijckaert* and *Ex Parte Levy*. Second, the Examiner uses the word “provision” again and this word simply does not occur anywhere in Edson as was discussed above. Third, as was described in the new assertions by the Examiner, he did not provide any additional evidence to prove Edson inherently teaches provisioning as defined by the Appellant or those skilled in the art. The additional assertions were nothing more the Examiner’s words with no proof other than pointing to the gateway and ports and asserting that provisioning must occur there, even though Edson doesn’t teach or suggest it, expressly or inherently.

The Examiner simply has not provided any proof from Edson (e.g., a column and line number) where Edson actually teaches provisioning. The Examiner’s inherency assertions also contradict the definitions taught in other references asserted by the Examiner.

The Examiner has also appeared to unfairly misstate or ignore portions of the teachings of Edson several times in the previous office action and again in the Examiner’s Answer.

For example, in the Appeal Brief on page 14, paragraph 5, the Appellant stated:

The Examiner further asserts “One skilled in the ordinary art would clearly recognize that, gateway 13 is performing ‘automatically initializes broadband communication service configuration and provision in the gateway interface,’ since neither the appliance 41, TV 42, telephone 32, nor alarm system 34 had a capability or intelligent to manage the in-home communication system as whole. Thus, Edson teaches exactly and clearly the Appellant’s argued limitations.” (Final Office Action, Page 32, lines 5-9).

In the Appeal Brief on page 15, paragraph 2, the Appellant stated:

The Examiner is cautioned that he can not make up assertions that clearly have no support in the cited references. There is clearly also no support in Edson as the Examiner

asserts that since neither the appliance 41, TV 42, telephone 32, nor alarm system 34 had a capability or intelligent to manage the in-home communication system as whole as the Examiner asserts. Edson clearly teaches at Col. 11, lines 20-29 the operations of the gateway 13 are configurable from any data device in communication with the network 11. "Any data device" means any data device including appliance 41, TV 42, telephone 32 or alarms system 34.

In the Appeal Brief on page 15, paragraph 3, the Appellant stated:

Examiner appeared to be "picking and choosing only portions of Edson to meet his arguments instead of fairly considering the whole reference in violation of *W.L. Gore and Associates*."

In the current paper, the Examiner asserts Edson teaches the claimed invention at Col. 11, lines 3-15 that the gateway 105 is detecting/initializing, configuring and *provisioning* the new internal devices... (Examiner's Answer, Page 29, ¶¶2-3).

However, if the Examiner would have read just one sentence further in the same paragraph he cited, Edson clearly, distinctly and expressly teaches "if the user plugs in a new device specific interface and associated device into the power line 23 or into the in-home telephone wiring 21, **the network 11 executes the necessary configuration routines and automatically enables communications for the new device.**" (Col. 11, lines 15-19). Edson would not include such a statement in the same paragraph as the teachings cited by the Examiner if it were not relevant to describing the functionality of the gateway 13.

The Examiner then asserts that "in general Edson teaches two methods of initializing broadband communications services configuration and provisions: first method from CPU 105 of gateway 13 and second method from network 11 (i.e., any device in communication with network 11) (Examiner's Answer, Page 29, ¶5).

However, as was discussed above and in all previous response and in the Appeal

Brief, Edson clearly does not teach provisioning either expressly or inherently.

In addition, the Examiner cites a “second method” without any column or line citation from Edson. The Appellant’s claim element clearly recites “initializing broadband communications service configurations and provisions, initializing data communications parameters and for providing routing or bridging for networking communications” from the home gateway interface” and not from other devices on the network, so as was stated here and in previous papers, the Examiner’s so called second method is still not relevant to the claimed invention.

The Examiner then asserts the “Appellant is only pointing out the second method of Edson and arguing that the second method teaches away from the invention by citing the partial portion of Edson, while the first method is clearly discloses the invention.” (Examiner’s Answer, Page 29, ¶5).

The Examiner then asserts that “by reciting and arguing only the portion of Edson where any device in the communication network 11 is able to configure the network (i.e. second method) and by entirely ignoring the first method (recited in col. 11, line 13-15) one will clearly see that Appellant is picking and choosing portions of Edson (i.e., second method to meet his argument) instead of fairly considering the whole Edson reference which comprises two methods.” (Examiner’s Answer, page 31, ¶3 through page 32, ¶1).

From the arguments in the previous two responses, Appeal Brief and in this paper, these are also clearly incorrect assertions. The Examiner appears to be very sensitive about the Appellant correcting false statements made by the Examiner on the public record. The Appellant certainly has a right to do so under the patent rules and must correct any mistakes so the public will not be mislead. The Appellant clearly argued against both so

called “methods” contrived by the Examiner several different ways and several different times.

Yet again, in the Final Office action, the Examiner also clearly miss-stated on the public record the teachings of Edson by asserting “The gateway 13 is the only device with CPU, the gateway software, operating system and communications applications.” (Final Office Action Page 31, line 17 through Page 32, line 4, underline added by Appellant). The Appellant clearly pointed out why the Examiner had misstated the teachings of Edson by illustrating that a number of other devices as taught by Edson clearly included gateway software, an operating system and communications applications. (Appeal Brief, pages 11-15).

In the Examiner’s Answer, the Examiner now asserts that “none of the CPU, software, operating system for application is recited in the rejected claims. Thus, it is irrelevant to argue regarding the limitations that are not being claimed.” (Examiner’s Answer, Page 30, ¶2).

Here the Examiner falls down again by misstating what on the public record the Appellant is claiming. Another element of Independent Claim 1 and similar elements for Independent Claims 28 and 30 clearly recites “a processor for processing information from the one or more networks.”

In addition, software applications are being claimed by the Appellant in several dependant claims, including several claims allowed by the Examiner. Thus, a CPU (in independent claims) and applications (in dependent claims) are clearly being claimed and the Appellant’s arguments were certainly relevant to make.

The Appellant can only conclude that the Examiner either doesn’t understand the

invention, didn't read the whole Edson reference, didn't read all of the Appellant's claim elements, or didn't read all of the Appellant's responses and Appeal Brief before making all of these incorrect assertions.

In addition to the arguments presented above, *Examiner admits that Edson does not explicitly teach establishing one or more communications channels with the public network and establishing routing or bridging tables. (Final Office Action, Page 19, lines 9-10).*

Maintaining multiple transmission channels is part of the definition of provision(ing) provided by the Appellant.

The Examiner also admits that Edson "*does not explicitly disclose a display interface for displaying the information from the one or more networks.*" (*First Office Action, Page 5, lines 14-15, Final Office Action, Page 4, line 18-19*). This is a second claim element limitation not taught by Edson.

Since Edson does not teach or suggest, at least *two* elements of the Appellant's Claim 1, and by similar argument Claim 30 cannot be obvious under the holding of *In re Royka*. Thus, the Examiner has not established a *prima facie* case of obviousness in violation of the holding of *In re Royka*. Therefore, Claim 1 and 30 are not obvious over Edson alone and the 103 rejection should be immediately withdrawn.

**(b) The Examiner violated the holding of *W.L. Gore and Associates, Inc.* because Edson was not considered in its entirety, as a whole, including portions that led away from the claimed invention.**



In trying to establish a *prima facie* case of obviousness, the Examiner violated the holding of *W.L. Gore and Associates, Inc.* by not considering Edson as a whole including portions that lead away from the claimed invention.

The Appellant has pointed out several instances in which Edson teaches away from the claimed invention when considered in its entirety as a whole. Since the Examiner has not considered Edson in its entirety, he has violated the holding of *W.L. Gore and Associates, Inc.* Therefore, Claims 1 and 30 are not obvious over Edson alone and the 103 rejection should be immediately withdrawn.

**(c) The Examiner also violated the holding of *In re Geisler*, by ignoring the material respects, of Edson that teach away from the claimed invention.**

Even if the Examiner had established a *prima facie* case of obviousness, which he has not established as discussed in the arguments presented above, a *prima facie* case of obviousness can be rebutted under the holding of *In re Geisler* by showing the cited art teaches away from the claimed invention in at least one material aspect.

First as was described above, Edson clearly first teaches “From the user’s perspective, if the user plugs in a new device specific interface and associated device into the power line 23 or into the in-home telephone wiring 21, the network 11 executes the necessary configuration routines and automatically enables communications for the new device.” (Col. 11, lines 15-19). Thus, Edson clearly teaches the network 11 and not the gateway 13 “initializes communications service configurations.”

This *teaches away* in a first material aspect and is in direct contrast to the Appellant’s invention which recites a recites an integrated phone-based home gateway

system that automatically initializes broadband communications service configurations and provisions from within the integrated phone-based home gateway system.

Therefore, Edson *teaches away* from the Appellant's invention in at least one material aspects since the Appellant's invention recites an integrated phone-based home gateway system that initializes broadband communications service configurations and provisions from within the integrated phone-based home gateway system.

The Appellant has pointed out several material aspects in which Edson teaches away from the claimed invention. Thus, even if the Examiner had established a *prima facie* case of obviousness, which he had not based on the arguments above, the Appellant has rebutted it under the holdings of *In re Giesler*. Therefore, Claims 1 and 30 are not obvious over Edson alone and the 103 rejection should be immediately withdrawn.

**Reply to Examiner's Answers for Argument 2 for Issue 1**

**(a) The Examiner violated the holding of *In re Gordon* because combining the wireless communications interface and display of Jarett with the system of Edson renders the system of Edson unsatisfactory for one or more of it's intended purposes.**

As was stated in the Appeal Brief at Page 18, paragraph 2 through Page 19, paragraph 1:

The Examiner asserts "Edson teaches that a home gateway can be implemented with wireless internal media. Jarett discloses a wireless communications interface for connecting to an external device and a display interface for displaying the information from the one or more networks. In view of this, it would have been obvious to one having

ordinary skill in the art at the time the invention was made to modify the system of Edson, for the purpose of providing a home gateway system with a display and wireless connection to the wireless devices and providing the wireless devices with the capability to communicate with both the home gateway base station and cellular base station, as taught by Jarett, since Jarett states the advantages/benefits that it would reduce the cost of the hardware and software implementation to operate the cordless cellular base station.” (Final Office Action Page 5, lines 20-22).

The Examiner clearly stated in the Final Office action that Jarett discloses a wireless communications interface and it was the wireless interface of Jarett that was used to combine with Edson. The Appellant responded to these assertions with four pages of arguments (See Appeal Brief, pages 19-22).

The Examiner now asserts “the Jarett reference is used to address the missing limitation of Edson ‘a display for displaying the information from one more network.’ Thus, the arguments with regards to a wireless communication interface between Edson and Jarett are irrelevant.”

The Examiner now appears to have improperly introduced new grounds for combining the two references by dropping the wireless connection of Jarett and using the wireless connection of Edson and rejecting the claims present application over this new combination of features for the first time in the Examiner’s Answer. The Appellant requests the Appeal Board provide a citation to the relevant patent rules that allows the Examiner such an improper course of action.

In addition, the Examiner asserts a new motivation for the first time as “by utilizing the wireless interface at the gateway unit in order to communicate with other external

wireless devices it would be easier for the home user to move around the house during the call.” (Examiner’s Answer, page 33, ¶2).

However, this is not a valid motivation under *In re Fine* or *In re Jones* or any other holding to combine Edson and Jarett because Edson already taught a wireless interface 21,23 at the gateway 13. (Col. 7, lines 10-15). In addition, combining Edson and Jarett based such a motivation still has does not provide all of the recited elements of the claimed invention.

**(b) The Examiner violated the holding of *W.L. Gore and Associates, Inc.* because Edson in combination with Jarett was not considered in its entirety, as a whole, including portions that led away from the claimed invention.**

**(i) LCD Display of Jarett**

The Examiner asserted “The motivation being that by utilizing the LCD to display the caller and calling party information (Jarett) at the gateway unit (Edson) it can increase the subscriber’s ability to monitor the call.” (Final Office Action, Page 5, lines 26-28, Examiner’s Answer Page 33, ¶2).

However, Edson specifically teaches “physically, the gateway 13 may take a number of different forms. One version of the gateway 13 mounts between the studs, like a breaker box in a new home. Another version is a small box that stands on the floor and plugs into the power and phone lines at any convenient location with the premises” (Col. 8, line 66 to Col. 9 line 4).”

Thus, Edson specially teaches away from the Examiner's proposed motivation for combining Edson and Jarett and their combination and modification to try and obtain all of the claimed features of the Appellant's invention changes the principle operation of both Edson and Jarett. If the LCD of Jarett was added to the gateway of Edson, it would not increase the subscriber's ability to monitor the call because the gateway of Edson is either mounted in a wall between studs or placed on the floor. In either embodiment of Edson, the LCD of Jarett would not increase the subscriber ability to monitor a call unless the subscriber was physically able to view the LCD of Jarett added to the gateway of Edson between studs in a wall or by lying on the floor.

The Examiner asserts "it is irrelevant to argue that any specificity of Edson's gateway and Jarett's display since it is not being claimed. Moreover, Examiner could not find any reason why adding a display to the gateway device will not increase the subscriber's ability to monitor the call."

Again, the Examiner seems to misunderstand the holding of *W.L. Gore and Associates*. However, under the holding of *W.L. Gore and Associates*, the Appellant has a right to point out when any portion of cited prior art reference *teaches away* from a claimed invention. The Appellant need not claim such features for *W.L. Gore and Associates* to apply. If the LCD of Jarett was added to the gateway of Edson, it would not increase the subscriber's ability to monitor the call because the gateway of Edson is either mounted in a wall between studs or placed on the floor. This clearly teaches away from the claimed invention.

The Examiner then asserts for the first time in any paper, as totally new grounds for rejection "a display may not be physically present on the gateway." (Examiner's Answer,

page 34, ¶3). This assertion seems to directly contradict the Examiner's assertion above for as one of the primary motivations for combining Edson and Jarett and is logically inconsistent with the assertions made above.

The Examiner further asserts for the first time in any paper, as another totally new grounds for rejection, that Edson suggests the user of a display in a modem and that "it is also well known in the art, any modem has an LED (light emitting diode).. Thus, a display may be physically present on the gateway." The Examiner appears to be equating a display as claimed by the Appellant to a simple LED specifically on a modem for the first time. Again the Examiner has not provided any proof whatsoever from Edson or any other prior art for such an equivalence and the Appellant requests the Appeal Board force the to provide such proof to support his argument.

The Examiner then asserts "Jarett clearly teaches the home cordless base station/gateway has a display (modem LEDs) as set for above." (Examiner's Answer, page 33, ¶1). However, the Examiner has not provided any evidence of any such so called clear teaching from Jarett with a column number and line number. There is no teaching in Jarett at all that the Appellant can find that teaches, suggests or even mentions any equivalence between a modem LED and any other type of display.

The Examiner finally asserts "the test of obvious is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413 (CCPA 1981)." (Examiner's Answer, page 35, ¶3). The Examiner appears to be applying an incorrect and/or

incomplete test for combining references to support an obviousness rejection. It is a serious concern to the Appellant that the Examiner admits that he is not looking for all of the limitations of the claimed invention in the combination of references.

The MPEP clearly states in §2143, "To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in Appellant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)." *In re Royka* also clearly states "to establish *prima facie* case of obviousness all claim limitations must be taught or suggested by the prior art."

How can the Examiner expect to support an obviousness rejection in the first place if the Examiner is not looking for all of the claim limitations in the claimed invention in one reference alone or by combining several references and not apply the right test himself?

In addition, the Examiner should read *In re Ratti*. At some point to properly combine references there has to be a reasonable degree of success of bodily incorporation of one reference into another otherwise the combination of the references are not sufficient to render the claims *prima facie* obvious. The in *In re Ratti* court reversed a holding of obviousness by the Examiner by combining references since the proposed modification changed the principal operation of the prior art invention being modified and the "suggested combination of references would require a substantial reconstruction and

redesign of the elements shown in the primary reference as well as a change to the basic principle under which the primary reference construction was designed to operate” 270 F.2d at 813.

The Appellant also has pointed several instances where the combination of Edson and Jarett, considered individually or as a whole teaches away from the Appellant’s claimed invention under the holding of *W.L. Gore*. In addition, The Appellant has pointed out several instances where the combination of Edson and Jarett render the prior art invention being modified unsatisfactory for one or more of their intended purposes, so there is NO motivation to combine Edson and Jarett under the holding of *In Re Gordon*. Finally, since the proposed modifications of combining Edson and Jarett still do not teach all of the claim limitations of the Appellant’s invention, thus the combination of Edson and Jarett are not sufficient to render the Appellant’s claims *prima facie* obvious under the holding of *In Re Ratti*.

Edson or Jarett alone, or the combination thereof, does not make either Claim 1 or 30 obvious because they do not teach or suggest all the claim limitations taught by the Appellant. Thus, neither Claim 1 or Claim 30 can be obvious. Therefore, the Appellant requests the Examiner immediately withdraw the rejections of Claims 1 and 30.

#### **CLAIMS 2, 3, 5, 8-13 and 21-22**

The arguments for Claims 1 and 30 above and the First Office Action, Second Office Action and Appeal Brief are incorporated by reference. These claims are dependent claims adding additional features to the invention. The Appellant has explained in detail why independent Claims 1 and 30 are not obvious. The Examiner is reminded that if an



independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is not obvious. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Thus, Claims 2, 3, 5, 8-13 and 21-22 are not obvious under the holding of *In Re Fine*. Therefore, the Appellant requests the Examiner immediately withdraw the rejections of Claims 2, 3, 5, 8-13 and 21-22.

### **ARGUMENT for ISSUE 2**

*The Examiner admits that neither Edson nor Jarett explicitly discloses a speaker phone.* (First Office Action, Page 10, lines 1-2, Final Office Action Page 9, lines 6-9).

The arguments for Claims 1 and 30 above and the First Office Action, Second Office Action and Appeal Brief, are incorporated by reference. As was explained above, since the Appellant's invention is not obvious over Edson in view of Jarett, this dependent claim cannot be obvious over Edson in view of Jarett in view of Yamamoto. Thus, Claim 4 is not obvious under the holding of *In Re Fine*. Therefore, the Appellant requests the Examiner immediately withdraw the rejection of Claim 4.

### **ARGUMENT for ISSUE 3**

*The Examiner admits that neither Edson nor Jarett explicitly teaches: (1) the display interface displays and accesses voice and video messages; (2) the display interface teaches a graphical representation of a keypad; (3) the display interface displays at least one line of real-time stock quote, weather, headline news, community news, or electronic address information from the Internet; or (4) a video camera.* (First Office Action, Page 20 lines 21-22, Page 11, lines 21-23, Page 12, lines 18-20, Page 13, lines 24-25, Final Office Action, Page 10, lines 7-9, Page 11, lines 16-19, Page 12, lines 11-13, Page 13, lines 20-23).

The arguments for Claims 1 and 30 above and the First Office Action, Second Office Action and Appeal Brief are incorporated by reference. As was explained above, since the Appellant's invention is not obvious over Edson in view of Jarett, these dependent claims cannot be obvious over Edson in view of Jarett in view of Gerszberg. Thus, Claims 14-20 are not obvious under the holding of *In Re Fine*. Therefore, the Appellant requests the Examiner immediately withdraw the rejections of Claims 14-20.

#### **ARGUMENT FOR ISSUE 4**

*The Examiner admits that neither Edson nor Jarett explicitly teaches: (1) a Bluetooth protocol based interface; (2) a Shared Wireless Access Protocol based interface; or (3) Wireless Application Protocol based interface; (4) a short-range wireless communications interface; or (5) a long-range wireless communications interface.* (First Office Action, Page 14, lines 15-18, Page 15, lines 13-14, Page 16, lines 4-5, Page 17, Lines 1-2; Final Office Action Page 14, lines 12-14, Page 15, lines 11-12, Page 16, lines 3-4).

The arguments for Claims 1 and 30 above and the First Office Action, Second Office Action and Appeal Brief are incorporated by reference. As was explained above, since the Appellant's invention is not obvious over Edson in view of Jarett, these dependent claims cannot be obvious over Edson in view of Jarett in view of Treyz. Thus, Claims 23-26 are not obvious under the holding of *In Re Fine*. Therefore, the Appellant requests the Examiner immediately withdraw the rejections of Claims 23-26.

#### **ARUGMENT FOR ISSUE 5**

*The Examiner admits that Edson does not explicitly teach establishing one or more*

*communications channels with the public network and routing or bridging tables.* (First Office Action, Page 19, lines 11-12, Final Office Action, Page 19, lines 9-10).

The arguments for Claims 1 and 30 above and the First Office Action, Second Office Action and Appeal Brief are incorporated by reference. As was explained above, since the Appellant's invention is not obvious over Edson these dependent claims cannot be obvious over Edson. Thus, Claims 6,7 are not obvious under the holding of *In Re Fine*.

In addition, with respect to Claims 32-37, as was discussed above for Claims 1 and 30, Edson does not teach or suggest "initializing broadband communications service configurations and provisions from the integrated phone-based home gateway system." In fact Edson instead teaches the network 11 executes the necessary configuration routines enables communications for the new device." (Col. 11, lines 14-19). Thus, Edson teaches the network 11 and not the gateway 13 "initializes broadband communications service configurations and provisions."

Therefore, the Appellant requests the Examiner immediately withdraw the rejections of Claims 6,7 and 32-37.

#### **ARGUMENT FOR ISSUE 6**

*The Examiner admits that: (1) Edson does not explicitly teach a display interface for displaying the information from one or more networks; (2) neither Edson nor Jarett explicitly disclose the display interface that accesses voice, video and data messages, wherein the keypad is a key pad for entering alpha-numeric data or video camera for sending and receiving video data to and from the one or more networks; (3) neither Edson nor Jarett nor Gerszberg explicitly discloses a Bluetooth module for interfacing with wireless devices using*

*Bluetooth wireless protocol*. (First Office Action, Page 24, lines 3-4, Page 25, lines 15-16, Page 27, lines 20-21, Final Office Action, Page 24, lines 8-9, Page 26, lines 1-2, Page 28, lines 6-7)

The arguments for Claims 1 and 30 above and the First Office Action, Second Office Action and Appeal Brief are incorporated by reference. As was explained above, since the Appellant's invention is not obvious over Edson these dependent claims cannot be obvious over Edson in view of Jarett in view of Gerszberg in view of Treyz. Thus, Claim 28 is not obvious under the holdings of at least *In re Royka* and *W.L. Gore*. Therefore, the Appellant requests the Examiner immediately withdraw the rejections of Claim 28.

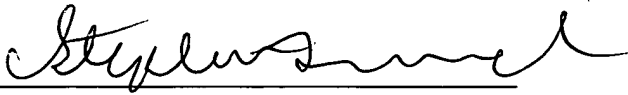
### CONCLUSION

For the foregoing reasons, Appellant submits that the Examiner's rejection of claims 1-37 is erroneous and not of these claims are obvious over any of the cited references. Accordingly, Appellant respectfully requests that the Appeal Board reverse the Examiner's rejection of claims 1-37 and immediately pass all claims 1-40 to allowance.

Respectively submitted:

Lesavich High-Tech Law Group, P.C.

Date: February 28, 2006

By:   
**Stephen Lesavich, PhD**  
**Registration No. 43,749**

**CLAIMS APPENDIX**

**Claims 1-40**

1. (Original) An integrated phone-based home gateway system providing in-home and to-home networking, comprising in combination:

a home gateway interface for initializing broadband communications service configurations and provisions, initializing data communications parameters and for providing routing or bridging for networking communications;

a communications interface for connecting to one or more networks, for providing data communications, for providing broadband communications and for providing narrow-band communications including voice communications;

a processor for processing information from the one or more networks;

a display interface for displaying the information from the one or more networks;  
and

a wireless communications interface for connecting to external wireless devices.

2. (Original) The integrated phone-based home gateway system of Claim 1, further comprising a portable multi-function handset.

3. (Previously Presented) The integrated phone-based home gateway system of Claim 2, wherein the portable multi-function handset performs the function of at least one of a cordless phone, a mobile phone, a web phone, or a walkie-talkie radio.

4. (Original) The integrated phone-based home gateway system of Claim 1, wherein the communication interface includes a speaker-phone.

5. (Original) The integrated phone-based home gateway system of Claim 1, wherein the communication interface includes a digital subscriber line ("DSL") device and an analog modem.

6. (Original) The integrated phone-based home gateway system of Claim 5, wherein the DSL device includes an asymmetric digital subscriber line ("ADSL") device, symmetric DSL ("SDSL") device, high-bit-rate DSL ("HDSL") device or very-high-bit-rate ("VDSL") device.

7. (Original) The integrated phone-based home gateway system of Claim 1, wherein the communication interface includes voice communications using Plain Old Telephone Service ("POTS") or Voice over Internet Protocol ("VoIP") channels.

8. (Original) The integrated phone-based home gateway system of Claim 1, further comprising:

at least one module for interfacing with an external device.

9. (Original) The integrated phone-based home gateway system of Claim 8, wherein the external device includes a desk-top computer, lap-top computer, notebook computer, a

home security device, a mobile phone, a personal digital assistant, a Internet Protocol-based home appliance, a printer, a facsimile machine, a video camera, or a scanner.

10. (Original) The integrated phone-based home gateway system of Claim 8, wherein the at least one module for interfacing with an external device includes an RJ-11 module, a peripheral component interconnect ("PCI") module, a Universal Serial Bus ("USB") module, a home phoneline network adapter ("HPNA") module, a Personal Computer Memory Card International Association ("PCMCIA") interface module, a Bluetooth module, an infra data association ("IrDA") module, or a wireless interface module.

11. (Original) The integrated phone-based home gateway system of Claim 1, further comprising one or more modular plug-and-play interfaces.

12. (Original) The integrated phone-based home gateway system of Claim 1, wherein the display interface comprises a removable display unit.

13. (Original) The integrated phone-based home gateway system of Claim 12, wherein the removable display unit interfaces with the home gateway interface through a wireless infrared or a wireless radio frequency communications interface.

14. (Original) The integrated phone-based home gateway system of Claim 1, wherein the display interface displays and accesses voice, video and data messages.

15. (Original) The integrated phone-based home gateway system of Claim 14 wherein the data messages include Internet Protocol messages or e-mail messages.

16. (Original) The integrated phone-based home gateway system of Claim 1 wherein the display interface displays a graphical representation of a keypad.

17. (Original) The integrated phone-based home gateway system of Claim 1, wherein the display interface displays at least one line of real-time stock quote, weather, headline news, community news, or a electronic address information from the Internet.

18. (Original) The integrated phone-based home gateway system of Claim 1, further comprising a keypad.

19. (Original) The integrated phone-based home gateway system of Claim 18 wherein the keypad is a graphical representation of a key pad on the display, a numeric key pad, an alpha-numeric key pad or a keyboard.

20. (Original) The integrated phone-based home gateway system of Claim 1, further comprising a video camera.



21. (Original) The integrated phone-based home gateway system of Claim 1 wherein the one or more networks include a public switched telephone network, a regional broadband network, or the Internet.

22. (Original) The integrated phone-based home gateway system of Claim 1 wherein the wireless communication interface includes an infrared or radio frequency wireless communication interface.

23. (Original) The integrated phone-based home gateway system of Claim 1 wherein the wireless communication interface includes a Bluetooth protocol based interface a Shared Wireless Access Protocol based interface or a Wireless Application Protocol based interface.

24. (Original) The integrated phone-based home gateway system of Claim 1 wherein the wireless communication interface includes a short-range wireless communication interface for connecting to external wireless network devices on a wireless piconet.

25. (Original) The integrated phone-based home gateway system of Claim 1 wherein the wireless communication interface includes a long-range wireless communication interface for connecting to external wireless network devices on a wireless wide area network.

26. (Original) The integrated phone-based home gateway system of Claim 22 wherein the wireless communication interface includes a long-range and a short-range radio frequency wireless communication interface.

27. (Original) The integrated phone-based home gateway system of Claim 1, further comprising a computer readable medium having stored therein a plurality of computer software modules with a plurality of instructions executable by the processor, including:

a session manager module for controlling an information session from the one or more networks, controlling a service manager module, controlling an interface manager module, controlling a display manager module and for automatically populating routing and bridging tables and providing routing or bridging for networking communications;

a service manager module for controlling the communications interface and the wireless communication interface, and initializing broadband communications service configurations and provisions and initializing data communications parameters;

an interface manager module for controlling interface modules to external devices;  
and

a display manager module for controlling the display interface and the display of information from the one or more networks.

28. (Original) An integrated phone-based home gateway system providing in-home and to-home networking, comprising in combination:

a home gateway interface for initializing broadband communications service configurations and provisions and for providing routing or bridging for networking communications;

a communications interface for connecting to one or more networks, wherein the communications interface includes a digital subscriber line ("DSL") device and an analog modem;

a processor for processing information from the one or more networks;

a removable display unit for displaying the information from the one or more networks for accessing and displaying voice, video or data messages;

a key pad for entering alpha-numeric data;

a home phone line network adapter ("HPNA") module;

a Bluetooth module for interfacing with wireless devices using the Bluetooth wireless protocol;

a portable multi-function wireless handset for performing cordless phone, a mobile phone, a web phone, or walkie-talkie radio functions;

one or more short-range or long-range wireless interfaces for interfacing with external wireless devices;

one or more RJ-11 interface jacks;

at least one modular plug-and-play interface for interfacing with other external devices; and

an optional video camera for sending and receiving video data to and from the one or more networks.

29. (Previously Presented) The integrated phone-based home gateway system of Claim 28, further comprising a computer readable medium having stored therein a plurality of computer software modules with a plurality of instructions executable by the processor, including:

a session manager module for controlling an information session from the one or more networks, controlling a service manager module, controlling an interface manager module, controlling a display manager module and for automatically populating routing and bridging tables and providing routing or bridging for networking communications;

a service manager module for controlling the communications interface and initializing broadband communications service configurations and provisions and initializing data communications parameters;

an interface manager module for controlling interface modules to external devices;  
and

a display manager module for controlling the removable display unit and the display of information from the one or more networks.

30. (Previously Presented) An integrated phone-based home gateway system conversion system for connecting to existing phone systems, providing in-home and to-home networking, comprising in combination:

a home gateway interface for initializing broadband communications service configurations and provisions and for providing routing or bridging for networking communications;

a communications interface for connecting to one or more networks, for providing data communications, for providing broadband communications and for providing narrow band communications including voice communications;

a processor for processing information from the one or more networks;

a wireless communications interface for connecting to external wireless devices;

a home phone line network adapter ("HPNA") module; and

one or more RJ-11 interface jacks.

31. (Previously Presented) The integrated phone-based home gateway system conversion system of Claim 30, further comprising a computer readable medium having stored therein a plurality of computer software modules with a plurality of instructions executable by the processor, including:

a session manager module for controlling an information session from the one or more networks, controlling a service manager module, controlling an interface manager module, controlling a display manager module and for automatically populating routing and bridging tables and providing routing or bridging for networking communications;

a service manager module for controlling the communications interface and the wireless communication interface, and initializing broadband communications service configurations and provisions and initializing data communications parameters;

an interface manager module for controlling interface modules to external devices;  
and

a display manager module for controlling a display interface and display of information from the one or more networks.

32. (Original) A method for initializing an integrated phone-based home gateway system, comprising:

establishing one or more narrow-band communications channels with a public switched telephone network from the integrated phone-based home gateway system;

establishing one or more broadband communications channels with a public switched telephone network from the integrated phone-based home gateway system;

initializing a data communications interface for a data network from the integrated phone-based home gateway system;

initializing routing or bridging tables on integrated phone-based home gateway system; and

initializing broadband communications service configurations and provisions from the integrated phone-based home gateway system.

33. (Original) The method of Claim 32 further comprising computer readable medium having stored therein instructions for causing a processor to execute the steps of the method.

34. (Original) The method of Claim 32 wherein the step of establishing one or more narrow-band communications channel includes establishing a plain old telephone service ("POTS") channel or a Voice-over-Internet Protocol ("VoIP") channel.

35. (Original) The method of Claim 32 wherein the step of establishing one or more broadband communications channels includes establishing an asymmetric digital subscriber line ("ADSL"), symmetric DSL ("SDSL"), high-bit-rate DSL ("HDSL"), very-high-bit-rate DSL ("VDSL") or an asynchronous transport mode ("ATM") channel.

36. (Original) The method of Claim 32 wherein the step of initializing a data communications interface for a data network from the home gateway interface includes initializing an Internet Protocol ("IP") interface.

37. (Original) The method of Claim 32 wherein the step of initializing broadband communications service configurations and provisions via the home gateway interface includes initializing asymmetric digital subscriber line ("ADSL"), symmetric DSL ("SDSL"), high-bit-rate DSL ("HDSL") very-high-bit-rate DSL ("VDSL") or asynchronous transport mode ("ATM") service configurations and provisions.

38. (Original) An integrated phone-based home gateway system providing in-home and to-home networking, comprising in combination:

a home gateway interface for initializing broadband communications service configurations and provisions, initializing data communications parameters and for providing routing or bridging for networking communications;

a communications interface for connecting to one or more networks, for providing data communications, for providing broadband communications and for providing narrow-band communications including voice communications;

a processor for processing information from the one or more networks;

a display interface for displaying the information from the one or more networks;

a wireless communications interface for connecting to external wireless devices; and

a computer readable medium having stored therein a plurality of computer software modules with a plurality of instructions executable by the processor, including:

a session manager module for controlling an information session from the one or more networks, controlling a service manager module, controlling an interface manager module, controlling a display manager module and for automatically populating routing and bridging tables and providing routing or bridging for networking communications;

a service manager module for controlling the communications interface and the wireless communication interface, and initializing broadband communications service configurations and provisions and initializing data communications parameters;

an interface manager module for controlling interface modules to external devices;  
and

a display manager module for controlling the display interface and the display of information from the one or more networks.

39. (Original) An integrated phone-based home gateway system providing in-home and to-home networking, comprising in combination:



a home gateway interface for initializing broadband communications service configurations and provisions and for providing routing or bridging for networking communications;

a communications interface for connecting to one or more networks, wherein the communications interface includes a digital subscriber line ("DSL") device and an analog modem;

a processor for processing information from the one or more networks;

a removable display unit for displaying the information from the one or more networks for accessing and displaying voice, video or data messages;

a key pad for entering alpha-numeric data;

a home phone line network adapter ("HPNA") module;

a Bluetooth module for interfacing with wireless devices using the Bluetooth wireless protocol;

a portable multi-function wireless handset for performing cordless phone, a mobile phone, a web phone, or walkie-talkie radio functions;

one or more short-range or long-range wireless interfaces for interfacing with external wireless devices;

one or more RJ-11 interface jacks;

at least one modular plug-and-play interface for interfacing with other external devices;

an optional video camera for sending and receiving video data to and from the one or more networks; and

a computer readable medium having stored therein a plurality of computer software modules with a plurality of instructions executable by the processor, including:

a session manager module for controlling an information session from the one or more networks, controlling a service manager module, controlling an interface manager module, controlling a display manager module and for automatically populating routing and bridging tables and providing routing or bridging for networking communications;

a service manager module for controlling the communications interface and the wireless communication interface, and initializing broadband communications service configurations and provisions and initializing data communications parameters;

an interface manager module for controlling interface modules to external devices;  
and

a display manager module for controlling a display interface and display of information from the one or more networks.

40. (Original) An integrated phone-based home gateway system conversion system for connecting to existing phone systems, providing in-home and to-home networking, comprising in combination:

a home gateway interface for initializing broadband communications service configurations and provisions and for providing routing or bridging for networking communications;

a communications interface for connecting to one or more networks, for providing data communications, for providing broadband communications and for providing narrow band communications including voice communications;

a processor for processing information from the one or more networks;

a wireless communications interface for connecting to external wireless devices; a home phone line network adapter ("HPNA") module;

one or more RJ-11 interface jacks; and

a computer readable medium having stored therein a plurality of computer software modules with a plurality of instructions executable by the processor, including:

a session manager module for controlling an information session from the one or more networks, controlling a service manager module, controlling an interface manager module, controlling a display manager module and for automatically populating routing and bridging tables and providing routing or bridging for networking communications;

a service manager module for controlling the communications interface and the wireless communication interface, and initializing broadband communications service configurations and provisions and initializing data communications parameters;

an interface manager module for controlling interface modules to external devices; and

a display manager module for controlling a display interface and display of information from the one or more networks.

PATENT APPEAL BRIEF  
Application No. 09/773,103  
Examiner: Moore, Ian N.  
Art Unit: 5447  
Appellant: 3E Technologies, Inc.

**EVIDENCE APPENDIX**

The following documents are attached herewith:

None.

**PATENT APPEAL BRIEF**  
**Application No. 09/773,103**  
**Examiner: Moore, Ian N.**  
**Art Unit: 5447**  
**Appellant: 3E Technologies, Inc.**

**RELATED PROCEEDING APPENDIX**

None.